



JJGJr.06-01

Paper 4

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**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Volkov, et al.
Serial No. 09/644,817
Filed: 23 August, 2000
Attorney Docket No. ROS8009

DECISION GRANTING PETITION

This is a decision on the pleading styled "Petition to Include Missing Page in Original File," filed 12 December, 2000, requesting that Page No. 111 (containing claims 8, 9, 10, 11 and 12) be accorded a filing date of 23 August, 2000. The request is being treated as a petition under 37 C.F.R. §1.53 to accord a 23 August, 2000, filing date to the one page of previously omitted specification (claims) submitted on 12 December, 2000.

The petition is **GRANTED**.

The record indicates that:

- the instant application was deposited with the United States Postal Service (USPS) on 23 August, 2000;
- on 12 October, 2000, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application (Filed under 37 C.F.R. 1.53(b), Filing Date Granted," stating that page 111 of the specification appeared to have been omitted. The Notice set a two month period for reply from the 12 October, 2000, mailing date;
- in response to the Notice, Petitioner timely filed the instant petition, which included a postcard receipt evidencing that "-specification(123 pages)" were received in the mail room over Express Mail Label No. EL420107086US dated stamped on 23 August, 2000;
- Petitioner asserts that the "return receipt postcard acknowledg[es] the receipt of 123 pages of specification."¹

The return postcard receipt serves as *prima facie* evidence that all 123 pages of specification, including page 111, were received by the Office.²

¹ The petition, item 3.

² See: MPEP § 503, which provides in pertinent part:

[T]he postcard receipt will not serve as *prima facie* evidence of receipt of papers which are not adequately itemized...Instead, each separate component, e.g., the number of pages of specification, number of claims (nonprovisional applications), number of sheets of drawings, cover sheet (provisional applications), etc. should be itemized on the postcard receipt...A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the

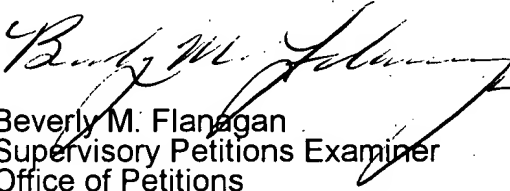
Receipt is acknowledged of the filing fees and signed declaration filed on 12 December, 2000.

The \$130.00 petition fee will be refunded to Deposit Account 50-1065.

The application is being forwarded to the Office of Initial Patent Examination:

- for further processing as a nonprovisional application filed under 37 C.F.R. §1.53(b) with a filing date of 23 August, 2000, using the copy of page 111 supplied on 12 December, 2000; and
- for other processing as necessary consistent with this decision.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Attorney, Office of Petitions at (703) 305-9199.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy